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HOUSE BILL 2425

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State of Washington

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By Representatives Chase and Hudgins

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1 AN ACT Relating to small-scale powered equipment; adding a new  
2 chapter to Title 70 RCW; adding a new chapter to Title 82 RCW; and  
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Consumer benefits" means a property of an item that is  
8 advantageous to the consumer of the item. The term "consumer benefits"  
9 includes, but is not limited to, reduced long-term costs of ownership,  
10 enhanced safety, and benefits to the overall environment.

11 (2) "Department" means the department of ecology.

12 (3) "Shelf space" means the area of a retail store that is made  
13 available to a potential customer and designed to display the items  
14 offered for sale at the store. The term "shelf space" includes not  
15 only items displayed on shelves, but also items displayed on the floor  
16 of the store or in other areas on the store's premises.

17 (4) "Small-scale powered equipment" means a tool or other nonroad  
18 or marine machine powered by a gasoline, diesel, or propane spark  
19 ignition engine that has a standard manufacturer's listed horsepower

1 rating of fifty horsepower or fewer. Examples of the term "small-scale  
2 powered equipment" include, but are not limited to, the following items  
3 when the components of the definition are satisfied: Lawnmowers,  
4 string trimmers, leaf blowers, air compressors, chainsaws, turf  
5 equipment, lawn and garden tractors, and vehicles designed for off-road  
6 use.

7 (5) "State agency" means any office, department, division, bureau,  
8 board, commission, or other agency of the state of Washington.

9 NEW SECTION. **Sec. 2.** (1) Any retailer that offers for sale an  
10 item that satisfies the definition of small-scale powered equipment  
11 must provide equal or greater shelf space to similar products that are  
12 powered by an electrical cord or a rechargeable battery.

13 (2) In calculating equal or greater shelf space, electric versions  
14 of individual equipment categories must be considered discreetly from  
15 their small-scale powered equipment counterparts. Total aggregate  
16 shelf space for small-scale powered equipment is not to be compared  
17 with the total aggregate shelf space for similar products that are  
18 powered by an electrical cord or a rechargeable battery.

19 (3)(a) This section does not apply to small-scale powered equipment  
20 when there is not a similar product category available on the market  
21 that is powered by an electrical cord or a rechargeable battery.

22 (b) If a retailer is unsure whether a similar product that is  
23 powered by an electrical cord or a rechargeable battery exists for a  
24 particular category of small-scale powered equipment, the retailer may  
25 petition the department for a statement of exemption from this section  
26 for the small-scale powered equipment in question.

27 NEW SECTION. **Sec. 3.** (1) Any retailer that offers for sale an  
28 item that satisfies the definition of small-scale powered equipment  
29 must dedicate a portion of its shelf space to adequate signs describing  
30 the consumer benefits of choosing electric or battery-powered engines  
31 over small-scale powered equipment. Retailers can either purchase  
32 signs from the department or produce their own signs consistent with  
33 the standards developed by the department under this section.

34 (2)(a) The department shall identify potential consumer benefits of  
35 choosing electric or battery-powered engines over small-scale powered  
36 equipment.

1 (b) The department shall:

2 (i) Incorporate the identified consumer benefits into a sign  
3 template appropriate for display in a retail store that satisfies the  
4 requirements of this section;

5 (ii) Produce copies of the signs made from the template that are to  
6 be offered for sale to retailers; and

7 (iii) Develop minimum sign standards to guide retailers choosing to  
8 produce their own signs in order to satisfy the requirements of this  
9 section.

10 (c) Signs sold to a retailer by the department under this section  
11 must be priced no higher than necessary to reimburse the department's  
12 development and production costs. All proceeds from sign sales must be  
13 deposited into the electrical equipment incentive account created in  
14 section 7 of this act.

15 (3)(a) This section does not apply to small-scale powered equipment  
16 when there is not a similar product category available on the market  
17 that is powered by an electrical cord or a rechargeable battery.

18 (b) If a retailer is unsure whether a similar product that is  
19 powered by an electrical cord or a rechargeable battery exists for a  
20 particular category of small-scale powered equipment, the retailer may  
21 petition the department for a statement of exemption from this section  
22 for the small-scale powered equipment in question.

23 NEW SECTION. **Sec. 4.** (1) The department shall offer electrical  
24 equipment incentive grants on a competitive basis to city or county  
25 governments. Grant funding may only be used by the city or county  
26 government for programs designed to subsidize, or otherwise create an  
27 incentive for, the purchase of alternatives to small-scale powered  
28 equipment that are powered by an electrical cord or a rechargeable  
29 battery.

30 (2) Competitive criteria for grant awards must be designed by the  
31 department. However, competitive priority must be given to local  
32 governments located in areas with the highest measurable air quality  
33 degradation due to emissions commonly associated with small-scale  
34 powered equipment.

35 (3) The amount provided in each grant, as well as the number of  
36 grants available, must be determined by the department based on funding

1 available from the electrical equipment incentive account created in  
2 section 7 of this act.

3 NEW SECTION. **Sec. 5.** (1) Except as otherwise provided in this  
4 section, state agencies are prohibited from purchasing small-scale  
5 powered equipment if the market offers an alternative item that is  
6 powered by an electrical cord or rechargeable battery.

7 (2) All state agencies shall phase out the use of small-scale  
8 powered equipment that have alternative items available on the market  
9 that are powered by an electrical cord or rechargeable battery on a  
10 timeline that ensures that no such items are in use five years after  
11 the effective date of this section.

12 (3)(a) The top administrative official of a state agency may waive  
13 the provisions of this section on a case-by-case basis if the top  
14 administrative official of the agency publishes a finding in the  
15 Washington State Register explaining the details as to why the purchase  
16 or use of the small-scale powered equipment was necessary and why the  
17 use of an electric-based alternative would have been impractical.

18 (b) The Washington State Register publication requirements of this  
19 section may be satisfied with one annual publication summarizing all  
20 instances where the requirements of this section were waived by the top  
21 administrative official in the preceding year.

22 NEW SECTION. **Sec. 6.** Local governments and school districts are  
23 encouraged to review their purchasing and use of small-scale powered  
24 equipment and select, when possible, alternative items that are powered  
25 by an electrical cord or rechargeable battery.

26 NEW SECTION. **Sec. 7.** The electrical equipment incentive account  
27 is created in the state treasury. All receipts from the electrical  
28 equipment incentive tax created in section 9 of this act, along with  
29 the sales of signs developed by the department under section 3 of this  
30 act, must be deposited into the account. Moneys in the account may be  
31 spent only after appropriation. Expenditures from the account may be  
32 used only by the department for local government electrical equipment  
33 incentive grants provided in section 4 of this act, sign development  
34 and manufacturing costs incurred by conformance with section 3 of this

1 act, and general expenses incurred through the implementation of this  
2 chapter.

3 NEW SECTION. **Sec. 8.** (1) A retailer operating in violation of  
4 this chapter is subject to a class 1 civil infraction under chapter  
5 7.80 RCW. Each calendar day of operation in violation of this section  
6 comprises a new violation.

7 (2) This chapter may be enforced by the department, the applicable  
8 air pollution control authority created under RCW 70.94.053, the  
9 applicable city or county government, or a general authority Washington  
10 law enforcement agency, as that term is defined in RCW 10.93.020.

11 NEW SECTION. **Sec. 9.** (1) In addition to any other taxes, there is  
12 levied and there shall be collected by the department from every person  
13 for the privilege of engaging within this state in business as a  
14 wholesaler or as a retailer an electrical equipment incentive tax equal  
15 to the gross proceeds of sales of all small-scale powered equipment, as  
16 that term is defined in section 1 of this act, that are sold within  
17 this state multiplied by six percent.

18 (2) The frequency and time of collection of the electrical  
19 equipment incentive tax shall coincide with the reporting periods by  
20 payers of their business and occupation tax.

21 NEW SECTION. **Sec. 10.** Instead of requiring each business to  
22 separately account for taxable and nontaxable products under this  
23 chapter, the department may provide, by rule, that the tax imposed in  
24 this chapter be reported and paid based on a percentage of total sales  
25 for a particular type of business if the department determines that the  
26 percentage reasonably approximates the taxable activity of the  
27 particular type of business.

28 NEW SECTION. **Sec. 11.** To the extent applicable, all of the  
29 definitions of chapter 82.04 RCW and all of the provisions of chapter  
30 82.32 RCW apply to the tax imposed in this chapter.

31 NEW SECTION. **Sec. 12.** Taxes collected under this chapter must be  
32 allocated as follows:

1 (1) Fifty percent must be deposited into the electrical equipment  
2 incentive account created in section 7 of this act;

3 (2) Twenty-five percent must be deposited into the air pollution  
4 control account created in RCW 70.94.015;

5 (3) Twenty percent must be deposited into the general fund; and

6 (4) Five percent must be maintained by the department for the  
7 administration and enforcement of this chapter.

8 NEW SECTION. **Sec. 13.** As a demonstration to other state agencies  
9 as to how the requirements of section 5 of this act may be achieved,  
10 the department of general administration shall suspend the use of all  
11 spark ignition lawnmowers, string trimmers, and weed blowers on the  
12 capitol campus by October 1, 2008. The department of general  
13 administration shall document their transition from small-scale powered  
14 equipment to electrical or manual alternatives to aid other state  
15 agencies in their implementation of section 5 of this act.

16 NEW SECTION. **Sec. 14.** Sections 1 through 8 of this act constitute  
17 a new chapter in Title 70 RCW.

18 NEW SECTION. **Sec. 15.** Sections 9 through 12 of this act  
19 constitute a new chapter in Title 82 RCW.

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